

Calendar No. 252

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
110-119

AMERICAN RIVER PUMP STATION PROJECT TRANSFER ACT OF 2007

JUNE 28, 2007.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 482]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 482) to direct the Secretary of the Interior to transfer ownership of the American River Pump Station Project, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 482 is to direct the Secretary of the Interior to transfer ownership of the American River Pump Station Project, and for other purposes.

BACKGROUND AND NEED

In order to construct Auburn Dam in California, the Placer County Water Agency (Agency) transferred land and a pumping station on the American River constructed by the Agency in the 1970s to Reclamation. In exchange for the transfer, Reclamation agreed to provide the Agency a temporary water supply until Auburn Dam was completed. After construction was completed, the Dam would provide water to the Agency. Approximately 30 years ago, construction of the Auburn Dam was halted and the project was never completed. Reclamation has since removed the pumping station transferred from the Agency to Reclamation in the 1970s. Beginning in 1990, Reclamation installed pumps on a temporary basis for the benefit of the Agency. In order to help the Agency meet its summer water demand, Reclamation installs the tem-

porary pumps in the spring but is forced to remove them before winter so that they will not be destroyed by high river flows in the winter. In order to make water available to the Agency on a permanent basis, the Agency and Reclamation entered into a contract (#02-LC-20-7790) under which Reclamation will construct a new permanent pump station in the American River Canyon that will allow the Agency access to approximately 35,500 acre feet of water per year. The American River Pump Station Project will include a pump station, intake structures, diversion structures and other appurtenances. The contract between the Agency and Reclamation requires an act of Congress before title to the American River Pump Station Project is transferred from the United States to the Agency.

LEGISLATIVE HISTORY

H.R. 482 was introduced on January 16, 2007 by Representative John Doolittle and referred to the House Committee on Natural Resources. Under suspension of the rules, H.R. 482 passed the House of Representatives on February 7, 2007. The bill was received in the Senate and referred to the Committee on Energy and Natural Resources. At its business meeting on May 23, 2007, the Committee ordered H.R. 482 favorably reported.

During the 109th Congress, the Committee considered a similar measure, H.R. 4204, introduced by Representative Doolittle on November 2, 2005 and referred to the House Resources Committee. A hearing was held by the Water and Power Subcommittee on February 8, 2006. The Committee, by unanimous consent, favorably reported H.R. 4204 on April 25, 2006 (H. Rept. 109-430). Under suspension of the rules, H.R. 4204 passed the House of Representatives on May 9, 2006. The bill was received in the Senate and referred to the Committee on Energy and Natural Resources. The Subcommittee on Water and Power held a hearing on June 28, 2006. S. Hrg. 109-674. No further action occurred prior to the sine die adjournment of the 109th Congress.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 23, 2007, by voice vote of a quorum present, recommends that the Senate pass H.R. 482.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 directs the Secretary of the Interior to transfer ownership of the American River Pump Station (including associated facilities and property interests) to the Placer County Water Agency in accordance with the Act and the terms of an existing contract between the Agency and the United States.

Section 3 states that the Federal costs associated with the American River Pump Station are nonreimbursable.

Section 4 authorizes the Secretary to transfer title as specified in section 2 in full satisfaction of the United States' obligations under an existing Land Purchase contract (14-06-859-308).

Section 5(a) requires the Secretary to comply with environmental and other applicable laws prior to conveying any land and facilities pursuant to the Act.

Section 5(b) disclaims that anything in the Act modifies or alters any obligations under the National Environmental Policy Act or the Endangered Species Act.

Section 6 releases the United States from liability as specified, effective on the date of the transfer of land and facilities under the Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

MAY 29, 2007.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 482, the American River Pump Station Project Transfer Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tyler Kruzich.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 482—American River Pump Station Project Transfer Act of 2007

H.R. 482 would direct the Secretary of the Interior to convey certain federal land and a water pumping facility that is under construction on the American River to the Placer County Water Agency in California. Based on information from the Bureau of Reclamation, CBO estimates that enacting H.R. 482 would have no significant impact on the federal budget.

The bureau is constructing a water pumping station to replace the station that it acquired and dismantled in the early 1970s to build the planned Auburn Dam. To date, however, the Auburn Dam has not been built and there are no current plans to build it. Currently, the Placer County Water Agency expects that construction of the water pumping facility will be completed in the spring of 2008. Under this act, once the pumping station is constructed, the Secretary would convey it and some adjacent land and facilities to the Placer County Water Agency.

The bureau installs a temporary water pump each spring so that the agency can access its water rights. The pump must be removed every fall due to high flood waters during the winter months. The bureau spends between \$220,000 to \$450,000 annually to operate and maintain this temporary pumping station. CBO estimates that the federal government could save those operation and maintenance costs once the new station is finished.

H.R. 482 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The facilities and land conveyance authorized by this act would be accepted voluntarily by the Placer County Water Agency. Thus, any costs it might incur to comply with the conditions of conveyance would be incurred voluntarily.

The CBO staff contact for this estimate is Tyler Kruzich. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 482. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program.

Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 482, as ordered reported.

EXECUTIVE COMMUNICATIONS

Because H.R. 482 is similar to legislation considered by the Committee in the 109th Congress, the Committee did not request Executive Agency Views. The testimony provided by the Bureau of Reclamation at the Subcommittee hearing in the 109th Congress on H.R. 4204 follows:

STATEMENT OF WILLIAM E. RINNE, ACTING COMMISSIONER, BUREAU OF RECLAMATION

Madam Chairwoman and members of the Subcommittee, I am Bill Rinne, Acting Commissioner of the Bureau of Reclamation. Thank you for the opportunity to appear before you today. The Department supports H.R. 4204, a bill to transfer ownership of the American River Pump Station Project to Placer County Water Agency (PCWA) upon completion of construction.

The American River Pump Station replaces a permanent pumping plant constructed by PCWA in the late 1960's on the North Fork of the American River. The principal function of the original pumping plant was to convey water supply from PCWA's Middle Fork Project to the Auburn Ravine Tunnel for use in Placer County, California.

Reclamation initiated construction of Auburn Dam in 1967. Construction of the dam was authorized by the Act of September 2, 1965 (P.L. 89-161, 79 Stat. 615). At the time construction of the dam was beginning, PCWA maintained a pumping station just upstream from the proposed dam site. The pumping station could not remain in place during construction of the Auburn Dam.

In lieu of condemnation by the United States, PCWA entered into a Land Purchase Agreement with Reclamation in 1972, transferring PCWA's land and facilities in the American River canyon to the United States, but not their water rights. The Land Purchase Agreement obligated Reclamation to deliver 25,000 acre-feet of Middle Fork Project water annually to PCWA until Auburn Dam was completed, at which time PCWA would divert all their

water from the reservoir. To fulfill this obligation under terms of the Land Purchase Agreement, every year since 1972 Reclamation has installed a temporary pump station each April. The temporary facility remains in service until November when it is removed because of high winter flows that typically inundate the site.

Construction of Auburn Dam was halted in 1975 and has yet to be resumed. In the interim, Placer County has become increasingly urbanized. Consequently, PCWA will soon require year-round access to its full water supply from the Middle Fork Project. This demand substantially exceeds the capacity of the temporary facility. In addition, installation and removal of the temporary pump station each year is becoming increasingly costly.

Considering the circumstances, Reclamation and PCWA determined that a new permanent pumping plant was the best long-term solution for providing PCWA access to its water. PCWA further determined that it had needs for a higher-capacity pump than Reclamation would be obligated to provide. In 2003, Reclamation and PCWA entered into a cost-share agreement for the construction of a permanent pumping plant which stipulates that PCWA will pay all incremental costs of materials and construction necessary to enable the pumping plant to deliver water above the capacity negotiated to meet Reclamation's obligations to PCWA and that title will be transferred to PCWA upon completion of the permanent pumping plant, currently scheduled for 2008. The title transfer is contingent upon statutory authority, as provided in H.R. 4204.

H.R. 4204 would not impact other Central Valley Project (CVP) water or power contractors. The completed project will not be operationally or financially integrated with the CVP, nor will it provide benefits to other CVP water and power contractors. Georgetown Divide Public Utility District could potentially access water through agreements with PCWA. Total costs for the completed project are projected to be approximately \$55 million, and the cost share agreement provides that the Federal share for construction is approximately 70 percent. Although the payment of fair market value is normally a requirement for transfer of facilities from Federal ownership, given the circumstance that Reclamation is responsible for the destruction of PCWA's original pumping plant and obligated to provide equivalent water deliveries, and the expense of annually installing annual pump stations, the cost share agreement protects the interest of taxpayers in this case. Transferring title will also relieve the Federal Government of the obligations and liabilities of operating and maintaining the facility.

That concludes my testimony. I am pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 482, as ordered reported.

